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REMARKS

In response to the Office Action mailed March 15, 2004, each one of the cited references has been reviewed, and the rejections and objections made to the claims by the Examiner have been considered. The claims presently on file in the above-identified application are believed to be patentably distinguishable over the cited references, and therefore allowance of these claims is earnestly solicited.

In order to render the claims more clear and definite, and to emphasize the patentable novelty thereof, claims 1-4 and 7 have been cancelled without prejudice, claims 5-6 have been amended and new claims 8-43 have been added.

New Claims

New independent claims 8 and its dependent claims 9-11, new independent claim 12 and its dependent claims 13-16, new independent claim 17 and its dependent claim 18, new independent claim 19 and its dependent claims 20-40, and new independent claim 41 and its dependent claims 42-43 have been added. New independent claim 8 and 12, recites a method and system for creating a wireless network infrastructure between a plurality of remote terminals within wireless communication range of one another. New independent claim 17 recites a wireless communication system for controlling the allocation of a fixed payload bandwidth between a plurality of remote communication nodes; and new independent claim 19 recites a method of maximizing an allocated fixed payload bandwidth between a plurality of communication nodes in an autonomous wireless communication system. New independent claim 41 recites a dynamic wireless network system. Each of the independent method and system claims are fully supported by the specification as originally filed and which method and system claims are not disclosed in the prior art of record. More specifically the Doviak et al reference (U.S. 6,418,324) cited by the

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examiner is not concerned with creating a wireless infrastructure in an autonomous wireless communication system. Instead, the Doviak et al reference teaches utilization of a conventional third party wireless network provider. Based on the foregoing, claims 8-40 are in condition for immediate allowance.

Therefore, all claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested.

Election Restriction

Attorney for applicant affirms the election to prosecute the invention of group II, claims 5-7, which invention the examiner has indicated is classified in class 709, subclass 236. Based on this election, and the fact that the examiner has withdrawn claims 1-4 from further consideration, claims 1-4 have been cancelled without prejudice as being drawn to a non-elected invention.

Specification Corrections

Attorney for applicant has noted several typographical matters within the specification and correction have been made to correct the typographical matters.

Rejections

Rejections Under 35 USC §103

Claims 5-6 have been rejected under 35 USC §103(a) as being unpatentable over Doviak et al. (U.S. Patent No. 6,418,3240) and in further view of Almstead et al. (U.S. Patent No.: 6,499,144).

Claim 5 as amended, and its dependent claims 6 as well as claim 7 as amended patentably distinguish over the cited references either taken alone or in combination with one another because claims 5 and 7 as amended emphasizes the novel features and steps of the present invention. In this regard, claim 5 as amended specifies:

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"5. A system for establishing wirelessly a wireless infrastructure network, comprising:

a wireless protocol module for creating at least one wireless communication link to the remote terminals;

wherein said wireless protocol module causes each individual remote terminal to periodically exchange a dynamically generated routing table indicative of all of the then available routes to each individual one of the remote terminals within an autonomous wireless communication system;

wherein said wireless protocol module further causes one remote terminal having a then available route to at least yet another individual one of the remote terminals to be established as a primary station;

wherein said wireless protocol module still further causes all other remote terminals in said autonomous wireless communication system to be identified as secondary stations; and

wherein said wireless protocol module further causes a point to multi-point link on a single wireless channel to be created between said primary station and only those secondary stations having a then available route to at least another individual one of the secondary stations...."

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination must be found in the prior art and must not be based on the applicant's disclosure. In re Vaeck, 947 F. 2d, 488, 20 USPQ 2d, 1438 (Fed Cir 1991).

In rejecting claim 5 for alleged obviousness over the *Doviak et al. in view of Almstead et al.*, the examiner has failed to comply with the requirements of In re Vaeck, supra. Amended claim 5 is directed to a system for establishing wirelessly a wireless infrastructure network that comprises a wireless protocol module for creating at least one wireless communication link. From the foregoing, it is clear that the novel

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features of the present invention are not disclosed, nor suggested by **Doviak et al. in view of Almstead et al.**, in that neither reference whether taken alone or in combination with the other discloses or teaches, "a wireless protocol module for creating at least one wireless communication link..." Instead, the **Doviak et al.** reference teaches how to transport data to and from third party wireless network providers without teaching how the wireless infrastructure network is created.

Secondly, the **Doviak et al.** reference fails to disclose or teach, "wherein said wireless protocol module causes each individual remote terminal to periodically exchange a dynamically generated routing table indicative of all of the then available routes to each individual one of the remote terminals within an autonomous wireless communication system " Instead, the **Doviak et al.** reference is completely silent relative to "exchanging a dynamically generated routing table... "

Thirdly, the **Doviak et al.** reference fails to suggest or disclose, "wherein said wireless protocol module further causes one remote terminal having a then available route to at least yet another individual one of the remote terminals to be established as a primary station..." Again the **Doviak et al.** reference whether taken alone or in combination with the **Almstead et al.** reference is completely silent relative to "causes one remote terminal...to be established as a primary station..."

Finally, the **Doviak et al.** reference fails to disclose or suggest, "wherein said wireless protocol module further causes a point to multi-point link on a single wireless channel to be created between said primary station and only those secondary stations having a then available route to at least another individual one of the secondary stations". Here again, the **Doviak et al.** reference whether taken alone or in combination with the **Almstead et al.** reference is completely silent relative to causing "a point to multi-point link on a single wireless channel to be created...."

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In further support of the present arguments Attorney for applicant has noted that the ***Almstead et al.*** reference is not a wireless system. Accordingly, one skilled in the art would not be motivated to combine the wireless system as taught by the ***Doviak et al.*** reference with the wired system as taught by ***Almstead et al.*** reference.

With reference to claim 6, claim 6 patentably distinguishes over the cited references whether taken alone or in combination with one another under the same rationale as set forth earlier relative to claim 5.

In summary then, while the ***Doviak et al.*** reference may teach a wireless system that utilizes a third party wireless network provider, the ***Doviak et al.*** reference does not disclose, nor suggest, the novel features and steps of the present invention as claimed. Therefore, claim 5 as amended and dependent claim 6 as amended patentably distinguish over the cited references whether taken alone or in combination with one another.

Conclusion

Attorney for Applicant has carefully reviewed each one of the cited references made of record and not relied upon, and believes that the claims presently on file in the subject application patentably distinguish thereover, either taken alone or in combination with one another.

Therefore, all claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned Jerry R. Potts, Esq. at the below-listed telephone number.